



JUL - 5 2002

June 27, 2002

Ms Valerie Smith  
PO Box 119, Unit 3, 4500 Kingston Road  
Toronto Ontario M1E 2N9

Dear Ms Smith:

Re: Case Funding Application – *Criminal Code*  
Our file number: 1223-E-0204

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I am writing in response to an application received in our office on April 14, 2002 in which you applied for Case Funding from the Court Challenges Program with respect to the Criminal Code.

The Equality Rights Panel considered your application at its in-person meeting on May 25-26, 2002. After careful consideration, the Panel decided not to fund your case. The Panel's decision is set out in the following resolution:

*RESOLVED:*

*That case funding not be granted to the applicant, Valerie Smith, for her challenge to section 318(2) and 319(4) of the Criminal Code as consultation among the women's equality community is needed to demonstrate the significance and impact of the issues raised for women as a group.*

The Panel was of the view that the exclusion of women from the list of groups protected from hate propaganda under the Criminal Code has significant implications for the section 15 equality rights of women and the freedom of expression for artists and others protected under section 2(b) of the Charter. That being said, they note that no equality-seeking women's organizations were involved with or consulted in the preparation of your application for funding and that the degree to which women as a group are concerned about the issue was unclear. They were also unsure whether Eminem's lyrics were the best factual basis for a test case on this issue given that his songs are likely to be characterized by the courts as artistic expression. They wondered if other hate messages concerning women which are not presented in such a form might be a better choice (e.g. a publication advocating violence against women). For these reasons, they believed it would be premature to fund your application at this time.

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That being said, the Panel did indicate that were you to work on coalition with equality seeking women's organizations on the issue, the Panel might entertain an application from such a coalition provided that it addressed the concerns raised above.

If you have any questions or comments, please do not hesitate to contact Estella Muyinda, the legal policy analyst assigned to your file.

Yours truly,  
Court Challenges Program of Canada/  
Programme de contestation judiciaire du Canada

  
Per: Noël A. J. Badiou  
Executive Director

cc: Mr. Andrew P. McKay

encl. Panel Advisory Letter